

Message Text

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ACTION L-03

INFO OCT-01 EUR-12 ISO-00 IO-13 SP-02 USIA-06 AID-05
EB-08 TRSE-00 SS-15 STR-06 OMB-01 CEA-01 CIAE-00
FRB-03 INR-07 NSAE-00 XMB-02 OPIC-03 LAB-04
SIL-01 SEC-01 IGA-02 H-01 PA-01 PRS-01 JUSE-00
FTC-01 /100 W

-----117347 111540Z /47

R 111426Z JAN 78
FM AMEMBASSY PARIS
TO SECSTATE WASHDC 4098
INFO AMEMBASSY LONDON
USMISSION USUN
WHITE HOUSE
USDOC WASHDC

C O N F I D E N T I A L SECTION 01 OF 02 PARIS 00832

DEPT PASS TREASURY ELECTRONICALLY

L FOR MR. HANSELL

EB FOR MR. KATZ

TREASURY FOR MR. BERGSTEN

WHITE HOUSE FOR AMBASSADOR OWEN

COMMERCE FOR MR. HASLIM

E.O. 11652: GDS
TAGS: EINV, EGEN, UN, ECOSOC, UK, FR
SUBJ: ILLICIT PAYMENTS -- ECOSOC WORKING GROUP ON
CORRUPT PRACTICES

REF: STATE 001067

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1. BEGIN SUMMARY: U.S. DEL, LED BY DEPUTY LEGAL
ADVISER FELDMAN, HELD CONSULTATIONS IN LONDON AND
PARIS ON U.S. PROPOSALS FOR INTERNATIONAL AGREEMENT
ON ILLICIT PAYMENTS. NEITHER UK NOR FRANCE APPEAR
WILLING TO TAKE EFFECTIVE MEASURES TO DISCIPLINE
PRACTICES OF THEIR FIRMS TRADING ABROAD, ALTHOUGH
BOTH SAY THEY SUPPORT GENERAL PRINCIPLE OF INTER-

NATIONAL COOPERATION TO ELIMINATE ILLICIT PAYMENTS
IN CONNECTION WITH INTERNATIONAL COMMERCIAL TRANS-
ACTIONS. END SUMMARY.

2. IN LONDON, U.S. DEL HELD EXTENDED CONVERSATIONS
WITH GROUP OF FCO AND TRADE MINISTRY OFFICIALS LED
BY SIR LEO PLIATZKY. U.S. DEL BRIEFED BRITISH IN
DETAIL ON NEW U.S. CRIMINAL LEGISLATION AND PRESENTED
CONFIDENTIAL TALKING PAPER ON IMPLEMENTATION OF ICC
RECOMMENDATIONS TO GOVERNMENTS BY EXCHANGE OF
INFORMATION ON AGENTS' FEES AMONG INTERESTED STATES
PARTY TO INTERNATIONAL AGREEMENT. SIR LEO MADE CLEAR
FROM OUTSET THAT UK HAD CAREFULLY CONSIDERED ISSUE
AND IS NOT PREPARED TO TAKE UNILATERAL ACTION OR TO
MAKE COMMITMENTS IN A MULTILATERAL COMPACT THAT WOULD
PUT BRITISH FIRMS AT COMPETITIVE DISADVANTAGE IN
INTERNATIONAL MARKETPLACE. IN BRITISH VIEW,
CORRUPTION IS PROBLEM OF HOST COUNTRY THAT MUST BE
CLEANED UP BY THE HOST COUNTRY. UK WOULD BE PREPARED
TO COOPERATE BILATERALLY WITH THOSE HOST COUNTRIES
THAT DEMONSTRATE SERIOUS INTENT TO CONTROL CORRUPTION
AND WOULD SUPPORT MULTILATERAL AGREEMENT ESTABLISHING
A FRAMEWORK FOR SUCH BILATERAL COOPERATION. HE
REJECTED AS IMPRACTICABLE ANY SCHEME IN WHICH BRITAIN
WOULD TAKE MORE GENERAL MEASURES IN RELIANCE UPON
RECIPROCAL PROMISES OF OTHER EXPORTING COUNTRIES.
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3. U.S. DEL STRESSED NEED FOR BROAD-BASED INTERNATIONAL
AGREEMENT WHICH WOULD INCLUDE BOTH RESPONSIBILITY OF
HOST COUNTRIES TO ESTABLISH AND ENFORCE CRIMINAL LAWS
PROHIBITING BRIBERY OF THEIR OFFICIALS AND INDEPEN-
DENTLY EFFECTIVE MEASURES BY HOME COUNTRIES. PLIATZKY
INDICATED UK COULD SUPPORT AN INTERNATIONAL AGREEMENT
ESTABLISHING HOST COUNTRY COMMITMENTS TO ENACT AND
ENFORCE CRIMINAL LAWS AND PROVIDING FOR BILATERAL
ARRANGEMENTS FOR JUDICIAL ASSISTANCE. UK MIGHT ALSO
CONSIDER ESTABLISHING PENALTIES FOR ACTS OF UK
ENTERPRISES FURTHERING BRIBERY OF FOREIGN OFFICIALS
AND EXCHANGE OF INFORMATION ON AGENTS' FEES PROVIDED
THAT SUCH OBLIGATIONS WERE CONDITIONED UPON CONCLUSION
OF BILATERAL AGREEMENTS WITH INDIVIDUAL HOST COUNTRIES.
UK WOULD NOT BE PREPARED TO RELY UPON HOST COUNTRY
ACCESSION TO A MULTILATERAL AGREEMENT AS INDICATIVE OF
ITS SERIOUS INTENTION TO CONTROL CORRUPTION. U.S. DEL
ARGUED THIS SYSTEM WOULD PROVIDE NO ASSURANCE
OF EFFECTIVE ACTION BUT ASKED UK DEL TO PREPARE
SPECIFIC LANGUAGE IT COULD LIVE WITH.

4. IN REVIEWING SPECIFIC U.S. IDEAS FOR IMPLEMENTATION
OF INTERNATIONAL CHAMBER OF COMMERCE RECOMMENDATIONS ON

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RECORD-KEEPING OF AGENTS' FEES, UK OFFICIALS SAW NO
DIFFICULTY IN OBTAINING HOME COUNTRY ACCESS TO SUCH
RECORDS UPON REQUEST OR IN PASSING INFORMATION TO HOST
COUNTRIES FOR LAW ENFORCEMENT PURPOSES PURSUANT TO
BILATERAL AGREEMENTS, BUT THEY EXPRESSED DOUBT ON TWO
BASIC POINTS: 1.) WHETHER IT IS NECESSARY TO REQUIRE
COMPANIES TO MAINTAIN RECORDS OF AGENTS' FEES AND
2.) WHETHER SUCH INFORMATION COULD BE MADE AVAILABLE TO
THIRD (COMPETITOR) COUNTRIES WITHOUT PREJUDICE TO
BUSINESS CONFIDENTIALITY. THEY DREW CONCLUSION THAT
AGENTS' FEES EITHER OUGHT TO BE PUBLISHED OR HELD
STRICTLY CONFIDENTIAL AND SAW LITTLE PROSPECT OF
INTERNATIONAL AGREEMENT ON DISCLOSURE.

5. FOR EMBASSY LONDON: WHILE PLIATZKY'S ATTITUDE IS
SCARCELY ENCOURAGING, IT IS NOT YET CLEAR WHETHER HE
IS MORE OR LESS CONSERVATIVE THAN BRITISH INDUSTRY.
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CBI AND UK COUNCIL DEL WILL BE MEETING WITH HIM ON JANUARY 17 TO PRESENT ICC RECOMMENDATIONS WHICH FAVOR A MULTILATERAL AGREEMENT INCLUDING RECORD-KEEPING OF AGENTS' FEES. U.S... DEL BELIEVES IT WOULD BE HELPFUL IF YOU COULD MAINTAIN CONTACT WITH BRITISH INDUSTRY AND PLIATZKY TO ENCOURAGE SYMPATHETIC CONSIDERATION OF U.S. PROPOSALS AND TO REMIND UK THAT U.S. HOPES TO RECEIVE SPECIFIC LANGUAGE UK COULD SUPPORT FOR INCLUSION IN MULTILATERAL AGREEMENT.

6. IN PARIS U.S. DEL SPENT CORDIAL TWO-HOUR SESSION WITH FRENCH TEAM LED BY QUAI LEGAL ADVISER DE LACHARRIERE AND INCLUDING REPRESENTATIVES OF MINISTRY OF FINANCE. FRENCH EXPRESSED INTEREST IN TERMS OF NEW U.S. LEGISLATION AND REITERATED THEIR GENERAL SYMPATHY FOR AN INTERNATIONAL EFFORT AGAINST CORRUPTION. HOWEVER, AS IN PAST, FRENCH NOTED SERIOUS OBSTACLES THEY SEE TO SUCCESSFUL NEGOTIATION OF A MULTILATERAL AGREEMENT WITHOUT BEING IN POSITION TO MAKE SUGGESTIONS THAT MIGHT BE ACCEPTABLE TO FRANCE. U.S. DEL EMPHASIZED ITS DESIRE TO ESTABLISH A COMMON SUBSTANTIVE APPROACH WITH FRANCE AND OTHER WESTERN COUNTRIES AS BASIS FOR FURTHER CONSIDERATION OF TACTICS AND FORA. FRENCH DEL INDICATED GENERAL INTEREST IN THIS APPROACH AND READINESS TO PARTICIPATE IN AN AD HOC CONSULTATION OF OECD COUNTRIES IN MARCH BUT GAVE NO IMPRESSION THEY WOULD CONTRIBUTE SUBSTANTIVELY TO THIS EFFORT. INFORMALLY, FRENCH OFFICIALS INDICATED, AS IN PAST, THAT FRANCE WOULD HAVE NO OBJECTION TO MULTILATERAL PROVISIONS FOR CRIMINALIZATION BASED ON DOUBLE CRIMINALITY AND JUDICIAL ASSISTANCE. THEY CONTINUE TO REJECT ANY DISCLOSURE OF AGENTS' FEES HOWEVER NARROWLY DEFINED. THE ONE NEW ELEMENT IN
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FRENCH POSITION WAS DE LACHARRIERE'S VIEW THAT REGULATION OF ILLICIT PAYMENTS MIGHT BE A MATTER OF EUROPEAN COMMUNITY COMPETENCE. HE SUGGESTED THAT A COMMUNITY APPROACH, WHILE REQUIRING YEARS TO IMPLEMENT, MIGHT BE THE ONLY MEANS OF ASSURING EFFECTIVE ENFORCEMENT BY ALL EC GOVERNMENTS.

7. FELDMAN HELD SEPARATE DISCUSSIONS WITH ICC SECRETARIAT AND U.S. COUNCIL REPS WHO AGREED TO WORK TOWARDS MULTILATERAL BUSINESS-GOVERNMENT CONFERENCES

TO PROMOTE ICC CODE AND RECOMMENDATIONS TO GOVERNMENTS.
THEY REPORTED THAT SWEDEN INTENDS TO MAKE ACCEPTANCE
OF ICC CODE A CONDITION FOR ENTERPRISES TO DO BUSINESS
WITH GOS.
HARTMAN

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